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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,094	10/27/1998	AKIHIKO YAMASHITA	P-7355-8002	1236

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EXAMINER

SAJOUS, WESNER

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PRH

# Office Action Summary

Application No.  
09/147,094

Applicant(s)  
Yamashita et al.

Examiner  
Wesner Sajous

Art Unit  
2672



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5-28-02 and 7-24-02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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## **DETAILED ACTION**

### **Remarks**

This action is responsive to the communication filed on March 28, 2002, and the "Request For Continued Examination (RCE)" filed on July 24, 2002. By this communication, claims 1-9, and 11-13 are presented for examination.

### ***Response to Arguments***

1. Applicant's arguments filed 5-28-02 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the means as defined by the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. For, subject matter recited in the claims only is the measure of invention. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With regard to claims 1-9, 11-13, particularly the limitations of claim 1 with respect to the Lett reference, it is noted that the claimed limitations were treated as broadly as were presented for examination. The pointed illustration at fig. 6 of the Lett reference, as the equivalence to the recited claimed limitations, is referred to herein the action as the denotation of the Examiner broad interpretation of the claimed feature, and separate from the Applicants interpretations of the

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limitation, as described in page 2 of the response. From that illustration, it is deciphered that the user selection of the PPV program "Terminator 2" when highlighted, fall within the time period of 8:00-9:30. This highlighted selection is noted to be distinguishable from other time periods of other programming. It is also noted that the "means for displaying to discriminate ...", as recited in claim 1 of the invention, is treated herein in this action to have the equivalence of the "means" cited at claims 2 or 3 of the invention, as is supported by the specification, and as best understood by the Examiner. Thus, Applicants' arguments with respect to the claims are not deemed persuasive. Accordingly, the rejections are sustained.

2. The indicated allowability of claims 4-5 is withdrawn in view of the newly found reference as evidence of support for the well known teaching of bar mark for the indication of directions, as previously requested by the applicants.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett, patent number (WO 95/28799).

Considering claims 1-3, Lett, at fig. 4, sets forth and illustrates a method for displaying a plurality of program guides on a display unit in a matrix form by using one the ordinate (62) and the abscissa (60) as a channel number axis and another one as a time axis as claimed by the present invention, but lacks explicit recitation for the claimed means for displaying to discriminate

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a time period based on designation by a user in which a purchased program is present and a time period in which the purchased program is not present.

Nonetheless, Lett, at page 24, describes that by moving a cursor location, a user can select a program for viewing by highlighting a channel along with a time slots. This technique could be used for pay-per-view (ppv) event selection (page 25). The highlighted portion in the guide corresponds to the channel and time period at which the chosen pay-per-view event will be provided. A pay-per-view program could be purchased for a 1-day period. See, for example, figures 5-6, the "Terminator 2" selection, and figure. 15. The subscriber terminal will automatically tune the purchased event, or send a message alert to the user while watching another program when the ppv event begins (page 26). It is to be understood that the highlighted portion selected by the user is color-coded and could have been used as a means to distinguish between the ppv events and the non-ppv events, and the time period between which the programs are showing, as determined by the user.

Therefore, based on the above analysis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Lett, wherein a display to discriminate a time period based on designation by a user in which a purchased program is present and a time period in which the purchased program is not present is provided. In modifying Lett as such, a user would be able to make the determination of when a pay-per-view program is showing and watching another program with no fears of missing the already purchased program. Colors could have been applied on the grid guide to distinguish between the ppv

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programs and the non-ppv programs (page 26). See also the patent no. 6230323, assigned to Hamma et al., at cols. 8-17, particularly, at col. 8, lines 33-67.

As per claims 4 and 5, Lett sets forth or renders obvious most claimed subject matters of the invention as applied in the above claims 1-3 rejections, but fails show the means for displaying a mark indicating a direction of the channel axis.

By the rationale sets forth for the claims 1-3 rejections and in view of Lett's embodiments, it is the Examiner's understanding that the feature of displaying a mark indicating direction on a program guide is a known feature in the art as evidence of Hamma et al., patent no. 6230323. See figs. 7, and 9. Such is further noted to have been obvious to the ordinary skill in the art at the time the invention was made because Lett allows user interaction of the program guide by means of a remote controller. Scrolling up, down, left and right arrows on the grid guide upon manipulation of a remote control indicates the directions of the cursors (page 23). Such mark might have been displayed or presented at any form or shape, such as a bar mark-up, a pointer or arrow or as a shaded form. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lett as such, in order to have a user friendly system.

Considering claims 6-7, Lett sets forth all claimed limitation of the invention:

a) the claimed "setting means to allow the user to set an arbitrary time period to be set by a user" is equivalent to the actuation of a key in remote control 26 of fig. 1;

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b) the claimed “discriminatingly displaying means for effective a display to discriminate a time period set by the user and other time period to be displayed in different colors...” is equivalently met by fig. 6. Note that the user selection of “Terminator 2” have time periods (8:00-9:30) which discriminate between other time periods of other programming. It could be displayed in other colors in comparison to the non-selected programming.

In claims 8, and 9 the claimed “setting means allows the starting time and end time...” and the claimed “set for each day of the week by the user” would have been obvious over Lett’ disclosure, figures 13-14 since Lett provides the display of program guide schedule which is interacted with by a user by means of a remote control. Such guide could have included the start and ending time, and day of the week for a particular program.

Claim 11 is for the apparatus of claim 1 and is similarly rejected.

Claim 12 is for the apparatus of claim 6 and is similarly rejected.

Claim 13 includes the limitations of claims 6-8, and is rejected by the same basis and rationales set forth in above claims 6-8.

### **Conclusion**

**Any response to this action should be mailed to:**

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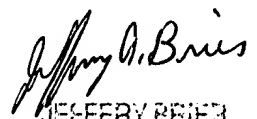
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Any inquiry concerning this communication or earlier communications from the examiner should  
be directed to **Wesner Sajous** whose telephone number is **(703) 308- 5857**. The examiner can  
also be reached on Mondays thru Thursday and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,  
Michael Razavi, can be reached at (703) 305-4713. The fax phone number for this group is  
(703) 308-6606.

  
JEFFERY BRIES  
PRIMARY EXAMINER

  
Wesner Sajous, WOS  
Patent Examiner, art unit 2672

July 7, 2002